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09/823,045	03/30/2001	Herve Buzot	PPC-783	8980

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EXAMINER

SALVATORE, LYNDIA

ART UNIT

PAPER NUMBER

1771

DATE MAILED: 06/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/823,045

Applicant(s)

BUZOT, HERVE

Examiner

Lynda M Salvatore

Art Unit

1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 19 March 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-17 and 21-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 18-20 and 24 is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

1. Applicant's amendment and accompanying remarks. Paper No. 8, has been entered. Claims 1,10,20 and 24 have been amended as requested. Applicant's amendments and accompanying remarks are found sufficient to overcome the 35 U.S.C. 112, second paragraph set forth in sections 3-6 of the last Office Action. As such these rejections are withdrawn. Applicant's arguments with respect to the 35 U.S.C. 102 and 103 rejections set forth in sections 8-14 have been fully considered but are moot in view of a new grounds rejections set forth herein below.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 24 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. Claim 24 is indefinite because the reference to "portion" in line 2. It is not clear to the Examiner which portion (i.e., upper or lower) the Applicant is referring.

### ***Claim Rejections - 35 USC § 102***

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

6. Claims 1-3,5,6,14-17,21-23 and 25-29 are rejected under 35 U.S.C. 102 (b) as being anticipated by Olsen, US 5,688,257.

The patent issued to Olsen et al., teaches a tampon comprising an absorbent body having a thermoplastic fluid permeable casing and a withdrawal string (Abstract). With respect to claim 3, Olsen teaches that suitable absorbent materials include cellulose fibers such as rayon or cotton and may further include a small amount of thermoplastic binding fibers to provide stability (Column 2, 32-40). Olsen further teaches preventing leakage by heat-sealing at least a portion of the end part of the thermoplastic material to form a fluid impervious film (Abstract). Preferably the casing material is a thermoplastic non-woven material, however, a perforated plastic film or thermoplastic net formed from polyethylene or polypropylene are also suitable (Column 2, 1-10). With regard to the recited limitation of "said over wrap comprised of dissimilar materials", it is the position of the Examiner that Olsen et al., meets this limitation by heat-sealing at least a portion of the end part to form a fluid impervious film. In other words, it is within the scope of the Olsen et al, invention to provide a final product structure with both a perforated upper portion and a fluid impervious lower portion, thus meeting the "dissimilar material" limitation.

***Claim Rejections - 35 USC § 103***

7. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

8. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Olsen, US 5,688,257 as applied to claim 3 above, and further in view of Koyo Co. Ltd, Derwent Japanese Abstract JP 07-070896A.

Olsen fail to teach using a water-soluble binding agent, however, the Japanese abstract to Koyo Co. Ltd teaches adding incorporating a water dispersible binding agent into short

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biodegradable thermoplastic fibers (Abstract). Koyo Co. Ltd, further teaches that in the presence of cold water the water dispersible binding agent promotes the dispersion of the non-woven (Abstract). Thus, when the non-woven is flushed the fabric does not block plumbing (Abstract).

Therefore, motivated by the desire to produce a catemenial device, which can be flushed away, it would have been obvious to one having ordinary skill in the art at the time the invention was made to substitute the water-soluble binding agent taught by Koyo Co. Ltd. for the thermoplastic binding fibers of Olsen, in the catemenial device taught by Olsen.

9. Claims 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Olsen, US 5,688,257 as applied to claim 5 above, in view of Martens et al., WO 97/23248.

Olsen lacks an explicit teaching to the specific cross-sectional shape of fiber used, however, the published PCT application to Martens et al., teaches improving the absorption capacity of absorbent articles with a mixture of non-limbed and multi-limbed regenerated cellulosic fibers (Page 2, 6-13).

Therefore, motivated to improve the absorption capacity of the feminine hygiene product, it would have been obvious to one having ordinary skill in the art at the time the invention was made to the mixture of non-limbed and multi-limbed regenerated cellulosic fibers of Martens et al., as the absorbent fibers in the tampon of Olsen.

10. Claims 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Olsen, US 5,688,257, as applied to claims 1 and 2 above, and further in view of Balzar, US 5,827,256.

Olsen fails to teach a compressed absorbent fibrous core, however, the patent issued to Balzar is directed to a tampon comprising a compressed absorbent fiber pledget (Abstract). Surrounding the pledget is a covering material such as perforated or non-perforated non-woven,

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from a thermoplastic film, which has been perforated to make it liquid-permeable (Column 3, 66-Column 4, 3 and Column 6, 36-40).

Therefore, motivated by the desire to provide a compact absorbent tampon it would have been obvious at the time the invention was made to use a compressed absorbent pledget such as the one disclosed by Balzar in the catamenial device of Olsen.

11. Claims 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Olsen, US 5,688,257 as applied to claim 1 above and further in view of Schaefer, US 3,815,601.

Olsen fails to teach using compressed tablets, however, the patent issued to Schaefer teaches a tampon comprising a resilient absorbent foam aggregate encased in an over wrap (Abstract). Schaefer further teaches distributing ancillary absorbent material within the foam aggregate (Column 5, 9-15). Suitable ancillary materials include pellets, rods, bars and individual fibers of cellulose (Column 5, 35-50 and Figure 9). Suitable over wrap materials include soft, flexible, fluid permeable non-woven fabrics (Column 12, 10-17).

Therefore, motivated increase absorption capacity, containment, and rates it would have been obvious to one having ordinary skill in the art at the time the invention was made to distribute ancillary absorbent materials such as pellets, rods, and bars as taught by Schaefer in the absorbent filling material of Olsen.

***Allowable Subject Matter***

12. Claims 18-20 and 24 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. With regard to claims 18-20 the prior art of record fails to teach an absorbent device with a lower portion comprising a bottom and a sidewall. With regard

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
to claim 24, the prior art of record fails to teach an absorbent device comprising a strengthening ring wherein said ring is capable of opening said lower portion. An updated art search produced no new substantial art for which to base a rejection and presently there is no motivation to combine references to form an obvious type rejection.


***Conclusion***

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lynda M Salvatore whose telephone number is 703-305-4070. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 703-308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

ls   
May 30, 2003

  
TERREL MORRIS  
SUPERVISORY PATENT EXAMINER  
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